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Plaintiff,  
and

No. 14-cv-704-GKF-JFJ

Defendants.

ZOOM/VIDEOTAPED DEPOSITION OF 30(b)(6) WITNESS  
STEPHEN PIKE  
TAKEN ON BEHALF OF THE PLAINTIFF  
ON SEPTEMBER 30, 2021, BEGINNING AT 10:02 A.M.  
ALL PARTIES APPEARING VIA ZOOM

On behalf of the PLAINTIFF:

Stuart Ashworth  
Cathryn McClanahan  
UNITED STATES ATTORNEY'S OFFICE  
NORTHERN DISTRICT OF OKLAHOMA  
110 West Seventh Street, Suite 300  
Tulsa, Oklahoma 74119  
(918) 382-2772  
stuart.ashworth@sol.doi.gov  
cathryn.mcclanahan@sol.doi.gov

VIDEOTAPED BY: Greg Brown

REPORTED BY: Jane McConnell, CSR RPR RMR CRR

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1 appropriate general setback distance would be around  
2 the wind turbines for all conditions. I am prepared  
3 to talk about the setback or buffer zone for mining  
4 activities.

5 Q Okay.

6 MR. ASHWORTH: I would certify that  
7 question for review by the Court.

8 Q (BY MR. ASHWORTH) Sir, what would be the  
9 appropriate setback requirement relative to mining  
10 activities around wind turbines at the Osage Wind  
11 project?

12 A An appropriate setback would be a 90-foot  
13 radius around the center of the wind turbine.

14 Q Okay. And what do you base that off of?

15 A We base that off of an assessment of the  
16 structural stability of the wind turbine.

17 (Exhibit 207 marked for identification.)

18 Q (BY MR. ASHWORTH) Okay. I'm going to  
19 pull up what I'm going to mark as Exhibit 207, and  
20 it's going to be a document that we received last  
21 night at midnight from the defendants entitled  
22 "Safety Radius Around Turbines Memo."

23 A Okay.

24 Q Can you see this document in front of you,  
25 sir?

Exhibit 12

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1           A       So the structural stability of the wind  
2       turbine relies on the stability of the foundation  
3       and the foundation and the weight of the materials  
4       above the footing of the foundation. So to keep the  
5       stability of the turbine, you need to keep the soils  
6       above the foundation of the wind turbine.

7           Q       Okay. So it's the defendants' position  
8       that the minerals within this no excavation zone is  
9       being used as -- or it's providing structural  
10      support for the towers, and because of that no  
11      excavation can take place within this zone; is that  
12      correct?

13          A       It is correct that the materials above the  
14      wind turbine foundation footing, the weight of those  
15      materials is helping to provide structural support  
16      for the wind turbine.

17          Q       What about the minerals outside of the  
18      footing but within the 90-foot radius of a wind  
19      tower at the Osage wind farm, are those minerals --

20          A       Those --

21          Q       Let me finish it. Are those minerals  
22      providing support to the wind turbines?

23                   MR. BALL: Objection to form. You can  
24      answer.

25          A       So those materials are not providing

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1 that the minerals in between 26 feet and 90 feet,  
2 within that area, those minerals are being used to  
3 provide lateral support to the minerals located  
4 within 26 feet of the center of the wind towers?

5 A That is correct based on these  
6 calculations, yes.

7 Q Okay. And if those minerals were to be  
8 removed, the wind towers would become unstable;  
9 is that correct?

10 MR. BALL: Objection to form.

11 A Not under all conditions would it be  
12 unstable. The design of a wind turbine foundation  
13 is for a number of different cases and conditions,  
14 and the worst case of that, the highest wind, for  
15 example, would dictate the ultimate design of the  
16 foundation.

17 So characterizing it as unstable because  
18 the materials were removed not generally unstable  
19 could be under the right conditions.

20 Q (BY MR. ASHWORTH) Okay. So by removing  
21 the materials or minerals that's in this zone  
22 between 26 feet and 90-foot radius outside of the  
23 wind tower, by removing those it has the potential  
24 to affect the stability of the wind tower; is that  
25 correct?

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1 A I think that is a fair statement, correct.

2 Q Okay. So it is the defendants' position  
3 that the Osage Minerals Council cannot develop the  
4 minerals within this no excavation zone because if  
5 they do, it has the potential of harming the  
6 stability or affecting the stability of these wind  
7 towers; is that correct?

8 A That is correct.

9 Q And it's the defendants' position that  
10 the Osage Minerals Council is not able to mine  
11 minerals from within this no excavation zone;  
12 is that correct?

13 A That is correct.

14 Q Is it the defendants' position that the  
15 Osage -- scratch that.

16 Is it the defendants' position that the  
17 minerals within this 90-foot radius are inaccessible  
18 to the Osage Minerals Council?

19 A That is correct.

20 Q Is it the defendants' position that the  
21 Osage Minerals Council can mine or develop the  
22 minerals 91 feet away from the wind towers?

23 A That is correct.

24 Q It would be the defendants' position that  
25 if the Osage Minerals Council were to develop the

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1 requirements that would give the safe buffer zone  
2 around the turbine.

3 Q This buffer zone relates to structural  
4 integrity and not safety of actual individuals?

5 MR. BALL: Objection to form;  
6 mischaracterizes the witness' testimony. You can  
7 answer.

8 A These calculations are relative to the  
9 structural stability of the wind turbine, correct.

10 Q (BY MR. ASHWORTH) Are you aware that  
11 studies have taken place about blade throw in the  
12 industry? Scratch that. Let me re-ask this.

13 Have you reviewed any documents showing  
14 studies of blade throws, blade throw?

15 A I don't recall reviewing any studies  
16 relative to blade throw.

17 Q Are you aware that certain studies have  
18 shown that wind powers of 1.5 megawatt can throw  
19 blades up to 1,900 feet away?

20 A I'm unaware of the study that comes to the  
21 conclusion that you referenced.

22 Q Okay. And you would agree that when blade  
23 throw does occur, if anyone is nearby, it could  
24 cause a risk to them; correct?

25 MR. BALL: Objection to form and outside

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1 MR. BALL: Objection. It

2 mischaracterizes --

3 Q (BY MR. ASHWORTH) Whether --

4 MR. BALL: It mischaracterizes -- go

5 ahead.

6 Q (BY MR. ASHWORTH) Whether for bedding or  
7 for padding?

8 A I am not aware of any rocks being crushed  
9 to provide bedding and padding for the collection  
10 system.

11 Q Okay. What would be one of the reasons  
12 other than that -- scratch that. What would be one  
13 of the reasons -- scratch that.

14 Sir, as to the materials that were  
15 excavated relative to the construction of the  
16 collector systems, did the materials serve any  
17 purpose other than being used as backfill?

18 A I can't think of a reason that the  
19 materials excavated would be used for anything  
20 other than backfill, no.

21 Q Okay. Well, that was a terrible question.

22 MR. BALL: Objection to form.

23 Q (BY MR. ASHWORTH) Did the excavated  
24 materials provide any benefit to the collector  
25 systems when used as backfill?

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1 MR. BALL: Objection to form.

2 A Yes. The materials that were excavated  
3 and put back in the ground provide for the cover  
4 over the buried electrical cable.

5 Q (BY MR. ASHWORTH) Did they provide  
6 thermal insulation for the cables?

7 A I think anything around the cable would be  
8 providing thermal insulation.

9 Q I'm sorry. Did you say -- are you saying  
10 that you think that anything or are you testifying  
11 that anything used would provide thermal insulation?

12 MR. BALL: Objection to form;  
13 mischaracterizes the witness' testimony. You can  
14 answer it.

15 A I'm saying that anything around a cable  
16 is providing some level of thermal insulation or  
17 resistance for it. All differ, the types would  
18 differ and the capability would differ, but anything  
19 is providing insulation.

20 Q (BY MR. ASHWORTH) Do you understand that  
21 some materials are not suitable to serve as thermal  
22 insulation for these transmission cables; correct?

23 A I understand that, yes.

24 Q Okay. And if the materials that were  
25 excavated were not suitable for use as thermal

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1 insulation, they would not have been used; correct?

2 A That is correct.

3 Q And if they were suitable for use as  
4 thermal backfill or thermal insulation, they would  
5 have been used for that purpose; correct?

6 MR. BALL: Objection to form.

7 A Again, there is a certain zone for thermal  
8 backfill around a conductor or a collector system  
9 cable. If they were suitable, I would assume, yes,  
10 they were used. And if they were not suitable, I  
11 would assume they were not used.

12 Q (BY MR. ASHWORTH) Okay. According to  
13 the defendants, was the excavated material used for  
14 the purpose of providing thermal insulation to the  
15 cables relative to the collector systems?

16 MR. BALL: Objection; form.

17 A Again, as I stated before, any material  
18 will provide some level of thermal insulation. And  
19 if it was deemed suitable, it would have been used  
20 for the thermal backfill. And if it was not, it  
21 would not have been.

22 Q (BY MR. ASHWORTH) So your testimony is  
23 yes?

24 MR. BALL: Objection to form.

25 Q (BY MR. ASHWORTH) Is that correct?

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